



Atty Dkt No. P6340

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)
P. Chen et al.)
Serial No.: 10/091,046) Group Art Unit: 3624
Filed: March 5, 2002) Examiner: N. Subramanian
For: AUTOMATICALLY)
ALLOCATING AND)
REBALANCING)
DISCRETIONARY PORTFOLIOS)

DECLARATION UNDER 37 C.F.R. §1.131

Assistant Commissioner of Patents
Washington, D.C.

We, Peng Chen, Roger Ibbotson and Michael Henkel, do hereby declare and state that:

1. We are the inventors of the subject matter claimed in the above-identified application as well as the inventors named in the above-identified application.
2. We have reviewed the above-identified application, together with the presently pending claims. The subject matter claimed in the application is directed to a system and method for automatically rebalancing the portfolio of an investor.
3. We are aware of the present rejection of the claims under 35 U.S.C. §103(a) and 35 U.S.C. §102(e) on the basis of U.S. Patent Application Publication No. 2002/0169701 to Tarbox et al. (hereinafter referred to as "Tarbox").

4. The subject matter recited in the claims of the subject patent application was actually reduced to practice by the undersigned inventors prior to the effective date of Tarbox, February 9, 2001. This reduction to practice included the construction of an embodiment of the invention that meets at least those elements described in independent claims 11, 51, 64 and 86-88 of the subject application.

5. In particular, prior to February 9, 2001, inventors Roger Ibbotson, Michael Henkel and Peng Chen oversaw the development of the Wealth Forecaster Engine software by programmers who were employees of Ibbotson Associates, Inc., the assignee of the above-identified application and owner of the Wealth Forecaster Engine software. The software was completed at least as early as October 30, 2000, and included code which meets at least those elements described in independent claims 11, 51, 64 and 86-88 of the subject patent application.


6. Attached as Exhibits A through D are screen prints from the SourceSafe software archiving system of Ibbotson Associates, Inc. showing the Wealth Forecaster Engine software modules HumanCap, GetTotalAsset, SetModelPortfolio and CalcAlloc, all having a time stamp of October 30, 2000. These modules contain code that meets at least those elements described in independent claims 11, 51, 64 and 86-88 of the above-identified application.

7. More specifically, Exhibit A illustrates the code of the HumanCap module which calculates the amount of Human Capital for an investor in a given year and divides the Human Capital into at least two differing investment types according to a predetermined formula. Exhibit B illustrates the code of the GetTotalAsset module which determines the total financial worth or assets of the investor as well as the total financial assets currently allocated to Fixed Income. Exhibit C illustrates the code of the SetModelPortfolio module which sums the financial assets and the Human Capital of the investor and determines the target allocation or

model portfolio to assign to the advice accounts based on the human capital and asset allocation of the financial accounts. Exhibit D illustrates the code of the CalcAlloc module which calculates the asset allocation of the advice accounts in a certain year based on how much Human Capital the investor has in relation to the overall assets.

8. All statements made herein of our own knowledge are true and all statements made on information and belief are believed true. Further, we are aware that willful false statements and the like are punishable by fine, imprisonment or both under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the above-captioned patent application, and any patent to issue thereon.

Date: 7-26-2006


Peng Chen

Date: 7-26-2006


Roger Ibbotson

Date: 7-26-06


Michael Henkel